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DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-918]

Steel Wire Garment Hangers from the People's Republic of China: Notice of Court Decision Not in Harmony with Final Results of Antidumping Duty Administrative Review; Notice of Amended Final Results of Review Pursuant to Court Decision; 2012-2013

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: On June 11, 2020, the United States Court of International Trade (CIT) sustained the final results of redetermination pertaining to the administrative review of the antidumping duty order on steel wire garment hangers from the People's Republic of China (China) covering the period of review (POR) October 1, 2012 through September 31, 2013. The Department of Commerce (Commerce) is notifying the public that the CIT's final judgment in this case is not in harmony with the final results of the administrative review, and that Commerce is amending the final results with respect to Shanghai Wells Hanger Co., Ltd. (Shanghai Wells).

DATES: Applicable June 21, 2020.

FOR FURTHER INFORMATION CONTACT: Kabir Archuletta, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-2593.

SUPPLEMENTARY INFORMATION:

Background

On March 13, 2015, Commerce published its *Final Results* in the 2012-2013

administrative review of steel wire garment hangers from China.<sup>1</sup> During the review, Commerce selected Thailand as the primary surrogate country, finding that data from Thailand provided the best available information on the record to value Shanghai Wells' reported factors of production (FOPs). In particular, Commerce found that the import data (including the surrogate value (SV) for wire rod, the primary material input FOP) and the labor SV for Thailand were superior to the SV data available from the Philippines, and the Thai financial statements were usable.<sup>2</sup> Therefore, Commerce selected Thailand as the primary surrogate country, consistent with section 773(c) of the Act of 1930, as amended (the Act) and used the Thai SV data as the basis for its dumping analysis.<sup>3</sup>

Shanghai Wells challenged the *Final Results*, and, on March 2, 2017, the CIT remanded that determination to Commerce, questioning Commerce's decision to rely on "usable" Thai financial statements based on a preference to "stay within the primary surrogate country," because Commerce must first "evaluate the available data {sources}, which includes an acknowledgement that on this record a reasonable mind would not select the Thai financial statements as better than the Philippine {financial} statements."<sup>4</sup>

On June 7, 2017, Commerce issued the *First Redetermination Results*,<sup>5</sup> continuing to select Thailand as the primary surrogate country and to value all FOPs with data from the primary surrogate country, in accordance with the established regulatory preference.<sup>6</sup>

On February 7, 2020, the CIT granted Commerce's request for a voluntary remand in

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<sup>1</sup> See *Steel Wire Garment Hangers from the People's Republic of China: Final Results of Antidumping Duty Administrative Review, 2012-2013*, 80 FR 13332 (March 13, 2015) (*Final Results*), and accompanying Issues and Decision Memorandum (IDM).

<sup>2</sup> See *Final Results*, and accompanying IDM at Comments 2 and 3.

<sup>3</sup> *Id.*

<sup>4</sup> See *Shanghai Wells Hanger Co. v. United States*, 211 F. Supp. 3d 1377, 1381 (CIT 2017).

<sup>5</sup> See *Final Results of Redetermination Pursuant to Court Remand in Shanghai Wells Co., Ltd. v. United States*, Consol. Court No. 15-00103, CIT Slip Op. 17-24, dated June 7, 2017 (*First Redetermination Results*).

<sup>6</sup> See 19 CFR 351.408(c)(2); see also *First Redetermination Results* at 2, 4-12.

order to further examine concerns raised by the CIT and the parties to this litigation.<sup>7</sup> In the *Second Redetermination Results*, Commerce determined that the Philippine financial statements on the record were the best available information for valuing the financial FOPs and recalculated the weighted-average dumping margin for Shanghai Wells.<sup>8</sup> On June 11, 2020, the CIT sustained Commerce’s *Second Redetermination Results*.<sup>9</sup>

#### Timken Notice

In its decision in *Timken*,<sup>10</sup> as clarified by *Diamond Sawblades*,<sup>11</sup> the Court of Appeals for the Federal Circuit held that, pursuant to section 516A of the Act, Commerce must publish notice of a court decision that is not “in harmony” with a Commerce determination and must suspend liquidation of entries pending a “conclusive” court decision.<sup>12</sup> The CIT’s June 11, 2020 judgment sustaining the *Second Redetermination Results* constitutes a final decision of the CIT that is not in harmony with Commerce’s *Final Results*. This notice is published in fulfillment of the publication requirements of *Timken* and section 516A of the Act.

#### Amended Final Results of Review

Because there is now a final CIT decision, Commerce is amending its *Final Results* with respect to Shanghai Wells for the POR as follows:

Exporter	Weighted-Average Dumping Margin (Percent)
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<sup>7</sup> See *Shanghai Wells Co., Ltd. v. United States*, Consol. Court No. 15-00103, Order (CIT, February 7, 2020).

<sup>8</sup> See *Final Results of Redetermination Pursuant to Court Remand in Shanghai Wells Co., Ltd. v. United States*, Consol. Court No. 15-00103 (*Second Redetermination Results*).

<sup>9</sup> See *Shanghai Wells Co., Ltd. et al. v. United States*, Consol. Court No. 15-00103, Slip Op 20-82 (CIT, June 11, 2020).

<sup>10</sup> See *Timken Co. v United States*, 893 F.2d 337 (Fed. Cir. 1990) (*Timken*).

<sup>11</sup> See *Diamond Sawblades Mfrs. Coalition v. United States*, 626 F.3d 1374 (Fed. Cir. 2010) (*Diamond Sawblades*).

<sup>12</sup> See section 516A(c) and (e) of the Act.

Shanghai Wells Hanger Co., Ltd. <sup>13</sup>	2.26
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### Assessment Instructions

In the event the CIT's ruling is not appealed or, if appealed, upheld by a final and conclusive court decision, Commerce intends to instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on unliquidated entries of subject merchandise exported by Shanghai Wells in accordance with 19 CFR 351.212(b)(1). Commerce will calculate importer-specific *ad valorem* assessment rates on the basis of the ratio of the total amount of dumping calculated for each importer's examined sales and the total entered value of those sales, in accordance with 19 CFR 351.212(b)(1). We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review when the importer-specific *ad valorem* assessment rate calculated is not zero or *de minimis*. Where an importer-specific *ad valorem* assessment rate is zero or *de minimis*,<sup>14</sup> we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.

Pursuant to Commerce's assessment practice, for entries that were not reported in the U.S. sales data submitted by Shanghai Wells during this review, Commerce will instruct CBP to liquidate such entries at the China-wide entity rate.<sup>15</sup>

### Cash Deposit Requirements

The cash deposit rate for Shanghai Wells has been superseded by cash deposit rates calculated in intervening administrative reviews of the antidumping duty order on steel wire

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<sup>13</sup> Shanghai Wells consists of Shanghai Wells Hanger Co., Ltd., and Hong Kong Wells Ltd. *See Final Results*, 80 FR at 13333.

<sup>14</sup> *See* 19 CFR 351.106(c)(2).

<sup>15</sup> *See Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties*, 76 FR 65694 (October 24, 2011).

garment hangers from China. Thus, we will not alter Shanghai Wells' cash deposit rate as a result of these amended final results of review.

Notification to Interested Parties

This notice is issued and published in accordance with sections 516A(e), 751(a)(1), and 777(i)(1) of the Act.

Dated: June 19, 2020.

Jeffrey I. Kessler,  
Assistant Secretary  
for Enforcement and Compliance.

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